UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,242	02/26/2004	Hitoshi Ueno	FUS 20.996	8984

26304   7590   05/29/2008
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EXAMINER
JEAN, FRANTZ B

ART UNIT	PAPER NUMBER
2154	

MAIL DATE	DELIVERY MODE
05/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 January 2008*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *12/06/07*.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

This office action is in response to applicant's response filed on 1/23/08. Claims 1-24

are pending in the application.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 12/06/07 is in

compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure

statement is being considered by the examiner.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

the claimed invention is directed to non-statutory subject matter. Claims 1-24 is

directed toward a computer program (software per se). The claims lack hardware or

machine to execute the steps of the program. Correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section

122(b), by another filed in the United States before the invention by the applicant for

patent or (2) a patent granted on an application for patent by another filed in the United

States before the invention by the applicant for patent, except that an international

application filed under the treaty defined in section 351(a) shall have the effects for

purposes of this subsection of an application filed in the United States only if the

international application designated the United States and was published under Article

21 (2) of such treaty in the English language.

Claims 1-24 are rejected under 35 U.S.C. 102(e) as being anticipated by

Bowman-Annuah hereinafter Bowman, US paten number 6,611,867.

As per claim 1, Bowman teaches a computer program that makes a computer

function as: managing a relationship between first configuration information concerning

a configuration of a first network layer and second configuration information concerning

a configuration of a second network layer, and automatically Updates the first

configuration information and the second configuration information following a change in

the configuration (see col. 71 lines 14-20; col. 11 line 46 to col. 12 line 33) and

instructing the second network layer, when the configuration of the first network layer is

changed, to change the configuration of the second network layer (col. 71 lines 14-20).

As per claim 2, Bowman teaches a computer program according to claim 1, wherein

when a bandwidth is changed in the first network layer, the instructing includes issuing a

change instruction to the second network layer concerning the change of the bandwidth

(change in bandwidth requirements, col. 107 lines 56-67).

As per claim 3, Bowman teaches a computer program according to claim 1, wherein the

second network layer consists of a plurality of layer elements, and the managing

includes managing a relationship between the second configuration information and the

first configuration information for each of the plurality of layer elements (see col. 71 lines

14-20; col. 11 line 46 to col. 12 line 33).

As per claim 4, Bowman teaches a computer program according to claim 1, wherein the

managing includes managing service information concerning communication service

provided from the first network layer and the second network layer, by relating the

service information to the first configuration information and the second configuration

information, and automatically updating the first configuration information, the second

configuration information, and the service information following the change of the

configuration (see col. 71 lines 14-20; col. 11 line 46 to col. 12 line 33; col. 71 lines 14-

20).

As per claim 5, Bowman teaches a computer program according to claim 4, wherein

when the communication service is being provided, the instructing includes notifying the

network layer about disapproval of changing the configuration (see fig 1C-1 and 1F-1).

As per claim 6, Bowman teaches a computer program according to claim 1, further

comprising receiving a notification of an occurrence of a trouble from the first network

layer, wherein the instructing includes notifying the second network layer about the

occurrence of the trouble (see fig 1C-1 and 1F-1).

As per claim 7, Bowman teaches a computer program according to claim 6, wherein the

instructing includes notifying, upon lapse of a predetermined time since the occurrence

of the trouble, a network manager about the occurrence of the trouble (see fig 1C-1 and

1F-1).

As per claim 8, Bowman teaches a computer program according to claim 1, wherein the first network layer is configured to have a link, and the second network layer is configured to have a path that is utilized in the link (col. 11 line 46 to col. 12 line 33). As per claims 9-24, they contain the same limitations as discussed above in claims 1-8. Therefore, they are rejected under the same rationale.

Response to Arguments

Applicant's arguments filed on 1/23/08 have been fully considered but they are not persuasive.

Applicant argued that Bownan-Annuah fails to teach changing the configuration of the second layer when the first layer is changed.

Examiner submits that applicant has misinterpreted the prior art of record. Bowman-Annuah in col 71 lines 19-20 discusses changing configuration in order to address and remedy to network problem. Therefore, Bowman-Annuah broadly addresses the above limitation regarding updating configuration information.

Accordingly, the rejection is maintained.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Frantz B. Jean whose telephone number is 571-272-

3937. The examiner can normally be reached on 8:30-6:00 M-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Nathan J. Flynn can be reached on 571-272-1915. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Frantz B. Jean/
Primary Examiner, Art Unit 2154